

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Bernardo Gutierrez	Team: Team # 5	CCRB Case #: 201208256	<input checked="" type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 06/22/2012 12:34 AM	Location of Incident: 1260 Sutter Avenue	Precinct: 75	18 Mo. SOL 12/22/2013	EO SOL 12/22/2013	
Date/Time CV Reported Sat, 06/23/2012 8:00 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sat, 06/23/2012 8:00 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			
2. LT Joseph Hayward	00000	923936	PBBN
3. POF Adriana Lobosco	24415	950761	PBBN
4. POM Anthony Lafemina	11439	949190	075 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POF Janice Caban	16608	950134	PBBN

Officer(s)	Allegation	Investigator Recommendation
A.POM Anthony Lafemina	Force: PO Anthony Lafemina pointed his gun at § 87(2)(b)	
B. Officers	Force: Officers pointed their guns at § 87(2)(b)	
C.POM Anthony Lafemina	Discourtesy: PO Anthony Lafemina spoke rudely to § 87(2)(b)	
D.POM Anthony Lafemina	Force: PO Anthony Lafemina used physical force against § 87(2)(b)	
E.LT Joseph Hayward	Force: Lt. Joseph Hayward used physical force against § 87(2)(b)	
F. Officers	Force: Officers used physical force against § 87(2)(b)	
G.POF Adriana Lobosco	Discourtesy: PO Adriana Lobosco spoke rudely to § 87(2)(b)	

Case Summary

On June 23, 2012, § 87(2)(b) filed this complaint with the CCRB via the Call Processing System (encl. 2A-2B). On June 22, 2012, at approximately 12:34 a.m., § 87(2)(b) was arrested on the rooftop of 1260 Sutter Avenue. The following allegations resulted:

Allegation A: Force- PO Anthony LaFemina pointed his gun at § 87(2)(b)

Allegation B: Force- Officers pointed their guns at § 87(2)(b)

§ 87(2)(g)

Allegation C: Discourtesy- PO Anthony LaFemina spoke rudely to § 87(2)(b)

Allegation G: Discourtesy- PO Adriana Lobosco spoke rudely to § 87(2)(b)

§ 87(2)(g)

Allegation D: Force- PO Anthony LaFemina used physical force against § 87(2)(b)

Allegation E: Force- Lt. Joseph Hayward used physical force against § 87(2)(b)

§ 87(2)(g)

Allegation F: Force- Officers used physical force against § 87(2)(b)

§ 87(2)(g)

Results of Investigation

Civilian Statements

Complainant/Victim: § 87(2)(b)

- § 87(2)(b) § 87(2)(b) old at the time of the incident, is a Hispanic male who is 5'5" tall, weighs 135 pounds and has black hair and brown eyes. § 87(2)(b)

Statements to Medical Personnel

On § 87(2)(b), § 87(2)(b) attended § 87(2)(b). He stated that he was assaulted but did not provide additional information. On § 87(2)(b), § 87(2)(b) attended § 87(2)(b). He stated that he had been "beat up" by police officers. § 87(2)(b) returned to this hospital on § 87(2)(b), and stated "I was beaten up by police on Friday" (encl. 2C-2G).

CCRB Testimony

On June 23, 2013, § 87(2)(b) filed this complaint with the CCRB via the Call Processing System. He did not provide a narrative. § 87(2)(b) was called by telephone on June 28, 2012, and he provided a narrative (encl. 2A-2B). On July 6, 2012, § 87(2)(b) provided a

second telephone statement (encl. 2H). He provided a sworn statement on July 16, 2012 (encl. 2I-2O), § 87(2)(g)

On June 22, 2012, at approximately 12:34 a.m., § 87(2)(b) was riding his bicycle on Sutter Avenue. § 87(2)(b) planned on making a right onto Euclid Avenue in order to go to his residence on § 87(2)(b). Two uniformed officers pulled up next to him in a marked police vehicle. § 87(2)(b) described the driver as a heavyset white male wearing a white shirt, in his 50's. The investigation identified this officer as Lt. Joseph Hayward. He described an officer in the passenger seat as a Hispanic female with a tan complexion and average build, approximately 25 years old. The investigation identified this officer as PO Adriana Lobosco. PO Lobosco told § 87(2)(b) to stop. § 87(2)(b) asked why and slowly turned the corner. He was in the process of coming to a complete stop. Lt. Hayward drove the vehicle onto the sidewalk on Euclid Avenue behind § 87(2)(b).

Fearing that Lt. Hayward intended to strike him with the vehicle, § 87(2)(b) rode his bicycle south on Euclid Avenue. Upon approaching the following intersection, § 87(2)(b) crossed to the other side of Euclid Avenue and began to pedal north towards Sutter Avenue. § 87(2)(b) repeatedly crossed the street and went south and north along Euclid Avenue as Lt. Hayward drove after him. He repeated this process four to six times. The final time that § 87(2)(b) did this, Lt. Hayward stopped the vehicle in the middle of Euclid Avenue and began to run after § 87(2)(b).

§ 87(2)(b) rode north and made a left upon reaching Sutter Avenue. § 87(2)(b) jumped off of his bicycle and ran inside a public housing building that had an object obstructing the lock, allowing him to enter. § 87(2)(b) ran up the stairs of the building and entered the rooftop through an unlocked door. Once on the roof, § 87(2)(b) walked up a set of stairs leading to the top of a 20 foot-tall structure that houses the building's elevator controls. § 87(2)(b) laid down completely flat on his back and called his mother and girlfriend.

Five to 15 minutes later, § 87(2)(b) heard officers walking around the rooftop. These officers left after conducting a brief search of the area. 20 to 30 minutes after this, officers returned to the rooftop. Approximately six to ten officers, at least two of which were in plainclothes, came up to the top of the elevator control room. § 87(2)(b) was lying flat on his back with both arms to the side and palms up. In his sworn statement, § 87(2)(b) stated that the first officer to reach the top said, "Hey buddy, you fucked up." He did not repeat this allegation in his other statements. § 87(2)(b) described this officer as a white male in plainclothes with an average build, in his 20's or 30's, wearing a dark blue shirt. The investigation identified this officer as PO Anthony LaFemina. In his initial telephone statement to the CCRB, § 87(2)(b) stated that PO LaFemina said, "Turn the fuck around." He did not repeat this allegation in his other statements. PO LaFemina and two other officers who § 87(2)(b) was unable to describe, pointed their guns at him. He did not make this allegation in his initial telephone statement.

§ 87(2)(b) stated that he gave up. § 87(2)(b) was physically turned around onto his stomach. § 87(2)(b) attempted to look to his sides to see the officers and was told by PO Lobosco to "Shut the fuck up" and look down at the ground. He did not see Lt. Hayward on the rooftop. Various officers began to step on the middle of § 87(2)(b)'s back, his arms, the back of his head and neck, and his right temple area. He was unable to see which officers performed these actions. In his initial telephone statement, § 87(2)(b) stated that PO LaFemina began to kick § 87(2)(b) on his face, arms and legs.

In his second telephone statement, § 87(2)(b) stated that he could not recall where he had been stepped on. In his sworn statement, he was unable to describe how hard he was being stepped on or describe the actions in more specific terms than "stepping." He related that he did not feel pain as the force was being used.

After the officers used this force, § 87(2)(b)'s next memory was waking up inside an ambulance with PO Lobosco present. PO Lobosco asked § 87(2)(b) basic questions such as his name. § 87(2)(b) was initially confused and unable to answer. § 87(2)(b) was taken to § 87(2)(b). § 87(2)(b) sustained scratches to the right side of his face and a finger, pain to his lower jaw, forehead and to the back of his head. § 87(2)(b) could not account for how exactly he sustained the scratches.

On July 16, 2013, § 87(2)(b) provided nine photographs of his injuries. The photographs were taken on June 22, 2012, by § 87(2)(b)'s mother at § 87(2)(b) (encl. 2Q-2Z).
Photo #1: Depicts dried blood and lacerations to the left side of § 87(2)(b)'s face. There is dried blood on his white polo's shirt collar.
Photo #2: Depicts lacerations on the left side of § 87(2)(b)'s face. Bruising is noted on his forehead.
Photo #3: Depicts dried blood and lacerations on the left side of § 87(2)(b)'s face.
Photo #4: Depicts dried blood on left side of § 87(2)(b)'s face.
Photo #5: Depicts redness and possible bruising to the right side of § 87(2)(b)'s face.
Photo #6: Depicts redness on right side of § 87(2)(b)'s face and ear.
Photo #7: Depicts scratching and bruising to one of § 87(2)(b)'s knees.
Photo #8: Depicts cuts to § 87(2)(b)'s left index finger and a scar over his left middle knuckle. He was unsure if the scar was due to this incident.
Photo #9: Depicts § 87(2)(b)'s abdomen. No apparent injuries are shown. § 87(2)(b) could not recall what this photograph was meant to depict.

NYPD Statements:

Subject Officer: PO ANTHONY LAFEMINA

- *PO LaFemina, § 87(2)(b) old at the time of the incident, is a white male who is 5'7" tall, weighs 165 pounds, and has black hair and blue eyes.*
- *On June 22, 2012, PO LaFemina was assigned to an underaged alcohol detail in uniform from the hours of 5:30 p.m. to 2:05 a.m. He did not specify if he would have been wearing a particular type of uniform. The detail would have entailed an undercover operation in a team. PO LaFemina would have been assigned specifically to prisoner transport. He was unsure who he would have been worked with on this date aside from PO Keith Drummond. He was assigned to an unmarked vehicle, a black Chevrolet Impala.*

Memo Book

At 11:20 p.m., PO LaFemina responded to a call for an additional unit from Lt. Hayward at 1266 Sutter Avenue. At 11:35 p.m., PO LaFemina performed a vertical at 1260 Sutter Avenue. The defendant was found on top of the building. EMS was requested to the scene at 11:45 p.m. (encl. 3A-3B).

CCRB Testimony

PO LaFemina was interviewed at the CCRB on September 12, 2012 (encl. 3C-3D). On June 22, 2012, at approximately 12:34 a.m., PO LaFemina responded to a call for assistance from Lt. Hayward. Upon arrival to the scene, Lt. Hayward explained that § 87(2)(b) had fled into either 1260 or 1266 Sutter Avenue, which are adjacent buildings. PO LaFemina performed a vertical at 1260 Sutter Avenue. He was accompanied by other officers, but could not recall their commands or identities aside from PO Keith Drummond.

Upon reaching the roof, PO LaFemina noticed a ten foot tall elevator shaft which can be climbed using a ladder. PO LaFemina decided to check the top of the shaft. He initially stated that he could not recall if he would have gone up first or if another officer would have done so. He later denied being the first person up the ladder. PO LaFemina found § 87(2)(b) on top of the shaft. He could not recall § 87(2)(b)'s position when he first saw him. § 87(2)(b) was screaming and yelling. As PO LaFemina went to make physical contact with § 87(2)(b) to restrain him, § 87(2)(b) began to flail his arms and kick his legs in all directions. At one point during the interaction, § 87(2)(b) was face up on the ground and PO LaFemina rolled him onto his stomach and held him down by his shoulders and back area.

No officer used any other type of force against § 87(2)(b) aside from holding him down, including stepping on or kicking him. PO LaFemina did not have his firearm displayed and no officer pointed their firearms at § 87(2)(b). No officer used profanity including, "Hey buddy, you fucked up" or, "Shut the fuck up." § 87(2)(b) was handcuffed shortly after physical contact was first made. "K2" synthetic drugs were found on § 87(2)(b).

PO LaFemina noticed scratches on § 87(2)(b)'s cheeks. He was unsure if he had these injuries when he had first noticed him, due to the darkness of the location. When asked how those injuries could have been sustained, PO LaFemina stated that there was gravel on top of the shaft and that § 87(2)(b) could have caused them himself while resisting. No officer purposefully held his face against the gravel. PO LaFemina could not account for what would have caused any of § 87(2)(b)'s injuries aside from this.

ESU was called after § 87(2)(b) was non-compliant by tensing his body and refusing to move. ESU arrived an undetermined amount of time later. PO LaFemina left the scene once the ESU officers arrived. PO LaFemina did not speak to EMS at any point and was unaware of any officer doing so.

Subject Officer: LT.JOSEPH HAYWARD

- *Lt. Hayward, § 87(2)(b) old at the time of the incident, is a white male who is 5'7" tall, weighs 185 pounds, and has brown hair and brown eyes.*
- *Lt. Hayward was assigned to duty as patrol supervisor in uniform from the hours of 6:05 p.m. on June 21, 2012, to 2:50 a.m. on June 22, 2012. He was partnered with PO Caban and PO Lobosco and was assigned to marked police vehicle 5479.*

Memo Book

At 12:10 a.m., one male was stopped. This male fled into 1260 Sutter Avenue. At 12:34 a.m., one arrest was made. This individual was transported to § 87(2)(b) regarding possible narcotics ingestion. At 1:00 a.m., Lt. Hayward took an administrative leave in regard to the incident (encl.6A-6B).

CCRB Testimony

On September 19, 2012, Lt. Joseph Hayward was interviewed at the CCRB (encl. 6C-6E). On June 22, 2012, at approximately 12:34 a.m., Lt. Hayward was operating the police vehicle. The officers approached § 87(2)(b) and he fled on his bicycle. Lt. Hayward attempted to pursue § 87(2)(b) and § 87(2)(b) rode his bicycle into the Cypress Hills Housing Development. Lt. Hayward began to pursue him on foot and observed that he had entered 1260 Sutter Avenue. § 87(2)(b) removed an object that had been obstructing the door, locking Lt. Hayward outside. Lt. Hayward, PO LaFemina, PO Lobosco and PO Caban performed a vertical of an adjacent building, but were unable to locate him.

Approximately fifteen minutes after § 87(2)(b) had fled, Lt. Hayward and PO LaFemina went onto the rooftop of 1260 Sutter Avenue. They were not accompanied by any other officers at this point. Lt. Hayward instructed Officers Caban and Lobosco to stay downstairs and direct

EMS and ESU to their location and hold the building's door open. He did not state why he would have wanted EMS or ESU to respond at this point in time. Lt. Hayward and PO LaFemina climbed a 30 foot ladder leading to the top of the elevator shaft. Lt. Hayward could not recall who would have gone up the ladder first. No more than one minute would have passed between one officer being on top of the structure followed by the other.

When he got to the top of the structure, Lt. Hayward observed § 87(2)(b) lying face down on its gravel surface. Lt. Hayward stated that the dimensions of the structure were 15 by 20 feet, with no protective surfaces, including railings on the edges of the structure. Lt. Hayward stated that he was concerned over the height of the structure and the limited amount of space. Lt. Hayward described the environment as "pitch black."

§ 87(2)(b) got up off of the surface while flailing his arms and verbally protesting that he had done nothing wrong. § 87(2)(b) was "babbling incoherently" and at one point went completely limp, sat on the floor, and got back up. This led Lt. Hayward to believe that § 87(2)(b) was possibly under the influence of drugs.

Lt. Hayward was asked if the officers tried to make physical contact with § 87(2)(b) immediately upon getting on top of the shaft, to which he replied, "I don't know, man," but stated that he recalled holding § 87(2)(b) until ESU arrived. He could not recall if physical contact was first made while § 87(2)(b) was standing. When asked how he would have been holding him, Lt. Hayward responded that he and PO LaFemina had been trying to hold him by his shoulders. At one point while holding him in this fashion, § 87(2)(b)'s chest was on the gravel. He may have scraped his face while being held this way, but the officers did not make purposeful pressure to cause this. Lt. Hayward could not independently recall § 87(2)(b)'s face making friction against any surface. As he was being held down, § 87(2)(b) continued to try to get up, and verbally protest.

Lt. Hayward denied any officer including PO LaFemina pointing their firearms at § 87(2)(b) during the incident. No officer including Lt. Hayward used profanity including, "Hey buddy, you fucked up" or "Shut the fuck up." No physical force was used by either officer aside from holding him down using their hands. No officer purposefully stepped on § 87(2)(b).

Lt. Hayward called ESU, because bringing § 87(2)(b) down from the structure was complicated by § 87(2)(b)'s irrational and violent behavior. Lt. Hayward also called EMS due to his belief that § 87(2)(b) may have had ingested narcotics. Several ESU officers whose number Lt. Hayward could not recall, responded approximately five minutes after he called for them. § 87(2)(b) was tied to a board, had Velcro straps tied around him and was hoisted down the shaft using a rope.

EMS workers saw § 87(2)(b) on the scene. § 87(2)(b) did not appear to be injured aside from a small scrape on a cheek. Lt. Hayward had noticed this injury just as § 87(2)(b) was about to be placed inside the ambulance. Lt. Hayward spoke to ambulance personnel at the scene. He told them that he wanted him to go to the hospital to ensure that he had not swallowed narcotics. Lt. Hayward was unsure if any other officer spoke to EMT's. Lt. Hayward was shown Photograph #3, and agreed that the injuries depicted were consistent with those he observed on the night of the incident. He was shown Photograph #5, and stated that he had noticed scratches, but had not seen additional injuries due to poor lighting at the scene.

When asked if he could account for any of the injuries, he stated that they may have come about as the officers attempted to restrain § 87(2)(b) but that no force had been used aside from holding him. Lt. Hayward could not account for the injuries § 87(2)(b) was diagnosed with after his § 87(2)(b), hospital visit.

Subject Officer: PO ADRIANA LOBOSCO

- *PO Lobosco, § 87(2)(b) old at the time of the incident, is a Hispanic female who is 5'4" tall, weighs 135 pounds, and has black hair and brown eyes.*
- *On June 22, 2012, PO Lobosco was assigned to duty as lieutenant operator in uniform from the hours of 7:30 p.m. to 4:05 a.m. She was partnered with Lt. Joseph Heyward and PO Janice Caban and was assigned to marked RMP 5479.*

Memo Book

At 12:10 a.m., a male was attempted to be stopped, but fled into 1260 Sutter Avenue. He was found by other officers on the roof. The male had minor scratches and possible drugs. At § 87(2)(b) PO Lobosco transported the male to § 87(2)(b). At 1:15 a.m., she was relieved of this duty by PO Troy (encl. 4A-4B).

CCRB Testimony

On October 24, 2012, PO Adriana Lobosco was interviewed at the CCRB (encl. 4C-4D) On June 22, 2012, at approximately 12:34 a.m., PO Lobosco was riding in the front passenger seat of the police vehicle. Lt. Hayward followed § 87(2)(b) in his vehicle until § 87(2)(b) got off of the bicycle and began to run. At this point, Lt. Hayward exited the vehicle and began to run after him. PO Lobosco entered the driver seat and drove behind both individuals. She observed Lt. Hayward run into 1260 Sutter Avenue. She had not seen § 87(2)(b) do so. A call for an additional unit was put over the radio by an officer, possibly Lt. Hayward, and officers performed a vertical. PO Lobosco went upstairs after being informed that officers had found § 87(2)(b) on the rooftop.

PO Lobosco entered the building through the front door but could not recall if it had been unlocked. PO Lobosco went onto the roof with PO Caban. Once on the roof, PO Lobosco noticed several officers from the 75th Precinct TRACER unit, including PO LaFemina, on top of an elevator shaft. PO Lobosco never went on top of the elevator shaft and was unable to see what was happening on its surface. PO Lobosco could not recall hearing anything indicative of a struggle or any commands being given.

PO Lobosco was unaware of officers pointing their guns at anyone and she did not. She was not aware of any officers using profanity including saying, "Hey buddy, you fucked up" or, "Shut the fuck up." She making either statement. PO Lobosco was unaware of any physical force being used against § 87(2)(b). She denied stepping or stomping on him and denied any other officer doing so.

The first time that PO Lobosco saw § 87(2)(b) on the rooftop was as he was being lowered from the shaft by ESU. PO Lobosco could not recall if § 87(2)(b) walked down the building voluntarily. PO Lobosco accompanied § 87(2)(b) to the hospital in an ambulance. She did not recall providing any statements to the EMT's. She was unable to see § 87(2)(b) clearly outside of the ambulance due to poor lighting. She noticed scratches on at least one of § 87(2)(b)'s cheeks. She was unaware of how he would have sustained any of his injuries. PO Lobosco noticed that § 87(2)(b) appeared confused and could not remember his name when speaking to an EMT. She did not speak to him. § 87(2)(b) had not exhibited this confused behavior when he was first stopped on his bicycle.

Witness Officer: PO JANICE CABAN

- *PO Caban, § 87(2)(b) old at the time of the incident, is a Hispanic female who is 5'7" tall, weighs 135 pounds and has black hair and brown hair.*
- *PO Caban was assigned to Impact overtime in uniform from the hours of 1:05 p.m. on June 21, 2012, to 2:18 p.m. on June 22, 2012. PO Caban was initially assigned to an Impact foot-post but eventually accompanied Lt. Heyward in a marked police vehicle.*

Memo Book

At 11:30 p.m., one male was stopped at the corner of Euclid Avenue and Sutter Avenue for riding his bicycle on the sidewalk. The defendant fled westbound on Sutter Avenue to the Cypress Hills NYCHA Housing Development. A vertical was conducted by multiple officers, from housing and anti-crime, in 1260 and 1266 Sutter Avenue. At 11:40 p.m., the defendant was found by officers on the elevator shaft of 1260 Sutter Avenue. At 11:45 p.m., EMS was requested for the injured defendant. He sustained scratches to his face during his apprehension and was believed to be under the influence of a substance. At 11:47 p.m., the defendant was informed that his handcuffs would be removed and he would need to come down the stairs of the elevator shaft. The defendant resisted and fought with officers. He refused to get up and went limp. Lt. Hayward requested ESU to remove the defendant. At 12:00 a.m., EMS responded and the defendant was removed to the hospital (encl. 5A-5G).

UF-61 and Online Booking Sheet

§ 87(2)(b) fled from officers after he was observed riding his bicycle on the sidewalk. It is noted that officers conducted vertical patrols at 1260 and 1266 Sutter Avenue. § 87(2)(b) was found by "other officers" lying down on an elevator shaft on the roof of 1260 Sutter Avenue. § 87(2)(b) refused to be handcuffed and multiple units were required to handcuff and remove him from the scene (encl. 5H-5L).

Criminal Court Complaint Report

PO Caban testified that § 87(2)(b) rode his bicycle on the sidewalk and fled upon her informing him that he could not do so. She observed § 87(2)(b) on top of a NYCHA building's elevator shaft and was informed by Lt. Hayward that § 87(2)(b) resisted arrest by disobeying orders, going limp, and refusing to be handcuffed (encl. 5M-5N).

CCRB Testimony

PO Caban was interviewed at the CCRB on August 17, 2012 (encl. 5O-5Q). On June 22, 2012, at approximately 12:34 a.m., PO Caban was riding in a police car with Lt. Hayward and PO Lobosco. As the group approached the corner of Sutter Avenue and Euclid Avenue, PO Caban observed § 87(2)(b) riding his bicycle on the sidewalk, a violation. PO Caban told § 87(2)(b) to stop. § 87(2)(b) fled and the officers pursued him along Euclid Avenue. § 87(2)(b) rode up and down the block on Euclid Avenue between Sutter Avenue and Blake Avenue.

§ 87(2)(b) ran on foot into the Cypress Hills Housing Development. § 87(2)(b) had left the officers' sights by this point, but civilians pointed towards 1260 Sutter Avenue. Lt. Hayward went over the radio and asked for units to perform a vertical. Verticals were subsequently performed at 1260 and 1266 Sutter Avenue due to the buildings being adjacent and it being possible that § 87(2)(b) could escape by exiting 1266 Sutter Avenue. Officers assigned to housing and other impact foot-posts responded. She could not recall the identity of any of these officers except for PO Anthony LaFemina.

Approximately ten minutes after these officers arrived, PO LaFemina went over the radio to state that he had apprehended § 87(2)(b) on top of an elevator control room on the roof of 1260 Sutter Avenue. At this point, PO Caban, PO Lobosco and Lt. Hayward went up onto the roof. Upon going onto the roof, PO Caban noticed the elevator control room, which is approximately seven feet tall. She was unable to see what was happening on top of the structure.

PO Caban overheard officers explain to § 87(2)(b) that they had to take his handcuffs off so that he could come down the ladder. She could not identify these officers. PO Caban heard § 87(2)(b) scream that he was not going anywhere. PO Caban heard officers say, “Stop resisting” and ask for § 87(2)(b)’s hands. At this point, Lt. Hayward went up onto the structure. Neither PO Caban nor PO Lobosco climbed onto the structure.

PO Caban was unable to observe any physical interactions between the officers and § 87(2)(b). PO Caban did not see any officers point their guns at § 87(2)(b) and she did not do so. PO Caban did not hear any officer use profanity including, “Hey buddy you fucked up” or “Shut the fuck up.” She did not make these statements. She did not see any officer use force by stepping on or kicking § 87(2)(b) and she did not do so.

ESU was called to rope § 87(2)(b) down. ESU arrived several minutes later and § 87(2)(b) was hoisted down the shaft with a rope around his waist. As he was being roped down, PO Caban noticed that he had scratches on his face. EMS was called for treatment at § 87(2)(b). § 87(2)(b) was acting strangely and saying bizarre things, leading PO Caban to believe he had ingested some kind of drug.

PO Caban did not learn as to how he had obtained any of his injuries. PO Caban handed § 87(2)(b) over to EMS and later saw him at the stationhouse, acting normally. He appeared to be confused about what had occurred during the incident. PO Lobosco accompanied § 87(2)(b) to the hospital in the ambulance and PO Caban returned to the command.

NYPD Documents

SPRINT

Requests for relevant SPRINT reports yielded negative results (encl. 13E).

Command Log

After repeated requests, The NYPD did not provide the command log in which § 87(2)(b)’s arrest would have appeared.

Medical Treatment of Prisoner Form

§ 87(2)(b) is noted to have scratches on his face. It is also noted that he is believed to be high on unknown drugs. It is not specified why this is believed (encl. 7D).

Arrest Photograph

§ 87(2)(b)’s arrest photograph shows minor abrasions on both sides of his face and forehead (encl. 2P).

Medical Records

Ambulance Call Report § 87(2)(b) shows that § 87(2)(b) was noted to have minor scratches and cuts on his face. An unidentified officer stated that § 87(2)(b) had run away from officers and had attempted to hide on a rooftop. This officer stated that § 87(2)(b) could have possibly swallowed drugs and was sleeping when found (encl. 8A-8C).

§ 87(2)(b) attended § 87(2)(b) on § 87(2)(b), and was found to have multiple abrasions and bruises to his face. An abrasion was also noted on his left knee. “Abrasion” and “Physical Assault” is noted under “Diagnoses” (encl. 8D-8F).

§ 87(2)(b) attended § 87(2)(b) on § 87(2)(b). He was found to have sustained abrasions on his face and left knee, paraspinal muscle tenderness and tenderness over his right and left mandible. He was further diagnosed with abrasions or friction burns, and contusions. He returned to his hospital on § 87(2)(b). A physical examination showed “old bruises” to both sides of his face and forehead. “Old scars” are noted on his right arm. Dried blood was noted on the left side of his face (encl. 8G-8K).

Arrest for Incident and Disposition

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Status of Civil Proceedings

- § 87(2)(b) has not filed a Notice of Claim with the City of New York, as of February 19, 2013 (encl. 9).

Civilian Criminal History

- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilians CCRB History

- This is the first CCRB complaint involving § 87(2)(b) (encl. 1E).

Subject Officers CCRB History

- PO LaFemina has been a member of the service for two years with no substantiated allegations having been made against him (encl. 1A).
- Lt. Hayward has been a member of the service for 13 years with the following substantiated allegations having been made against him (encl. 1B-1C):
 - In CCRB Case 201200559, an allegation regarding an entry and search of a location was substantiated against Lt. Hayward. The CCRB recommended that a command discipline be imposed. The NYPD had not reached a disposition as of the date this report was written.
- PO Lobosco has been a member of the service for one year with no substantiated allegations having been made against her (encl. 1D).

Conclusion

Identification of Subject Officers

§ 87(2)(b) alleged that upon being discovered on the rooftop, an officer he described as a tall white male in plainclothes with an average build, in his 20's to 30's, pointed his gun at him. This same officer said, “Hey buddy, you fucked up.” PO LaFemina worked in uniform on this date, is 5'7” tall, weighs 165 pounds and was § 87(2)(b) old at the time. PO LaFemina stated that he was one of the first officers to have discovered § 87(2)(b) and admitted to using physical force against him by holding him down. Lt. Hayward stated that only himself and PO LaFemina were present when § 87(2)(b) was discovered and also admitted to physically restraining him.

§ 87(2)(g)

§ 87(2)(b) further alleged that two other officers who he was unable to describe in any manner pointed their guns at him. In his initial telephone statement, § 87(2)(b) alleged that the same officer that discovered him repeatedly kicked him. In his second telephone statement and sworn statement, he stated that multiple officers stepped on him, but that he was unable to see who performed these actions due to being face down. § 87(2)(g)

§ 87(2)(b) stated that the same officer that accompanied him in the ambulance after the incident told him to “Shut the fuck up.” He described this officer as a Hispanic female with a tan complexion and average build, approximately 25 years old. This officer was identified as PO Lobosco, a Hispanic female who was § 87(2)(b) old at the time and acknowledged accompanying § 87(2)(b) to the hospital. § 87(2)(g)

Allegation A: Force- PO Anthony LaFemina pointed his gun at § 87(2)(b)

Allegation B: Force- Officers pointed their guns at § 87(2)(b)

§ 87(2)(b) alleged that upon being discovered, PO LaFemina and two other officers who he was unable to describe, pointed their firearms at him. All of the officers interviewed denied pointing or observing an officer point a firearm at § 87(2)(b)

An officer may point his firearm at someone if he has a reasonable fear for his own safety or that of someone else. People v. Gliner, OATH Index No. 955/00 (2000) (encl. 0A-0T).

§ 87(2)(g)

§ 87(2)(g)

Allegation C: Discourtesy- PO Anthony LaFemina spoke rudely to § 87(2)(b)

Allegation G: Discourtesy- PO Adriana Lobosco spoke rudely to § 87(2)(b)

§ 87(2)(b) alleged that upon being discovered, PO LaFemina stated, “Hey buddy, you fucked up.” In his initial telephone statement, § 87(2)(b) alleged that PO LaFemina said, “Turn the fuck around.” He did not repeat this allegation in his other statements. As § 87(2)(b) was lying face down on the ground, PO Lobosco allegedly said, “Shut the fuck up.” All of the officers interviewed denied stating or hearing an officer say, “Hey buddy, you fucked up” or “Shut the fuck up.”

§ 87(2)(g)

Allegation D: Force- PO Anthony LaFemina used physical force against § 87(2)(b)

Allegation E: Force- Lt. Joseph Hayward used physical force against § 87(2)(b)

§ 87(2)(b) alleged that he was stepped on by various officers as he was face down. Lt. Hayward and PO LaFemina both admitted to physically restraining § 87(2)(b) by holding him down on the gravel surface of the elevator shaft. They however denied stepping on him at any point. PO Caban and PO Lobosco denied interacting with § 87(2)(b) in any fashion prior to his being brought down from the shaft. § 87(2)(g)

§ 87(2)(g)

Allegation F: Force- Officers used physical force against § 87(2)(b)

§ 87(2)(b) alleged that as he was face down and unable to see who was performing the actions, multiple officers stepped on him. § 87(2)(g)

Team: 5

Investigator: _____	Bernardo Gutierrez	2/21/13
Signature	Print	Date

Supervisor: _____	_____	_____
Title/Signature	Print	Date

Reviewer: _____	_____	_____
Title/Signature	Print	Date

Reviewer: _____	_____	_____
Title/Signature	Print	Date